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“THE FREEDOM OF THE STRAITS”

BY ALFRED L. P. DENNIS

THE conference on the Near East has a full docket; in close connection with its decisions is the question as to the use of the Bosphorus and the Dardanelles. Is the United States Navy to be barred from the Straits and the Black Sea? Will precedents which may be created at Lausanne affect American interest in the fortification of the Panama Canal? Such possibilities are involved in the deliberations at which our Government is an interested observer.

“The freedom of the Straits” has a simple attractive sound as though it were a victorious slogan of long pent liberty. In fact it is a term encrusted with historical importance and mouldy with international intrigue. Today, in spite of wars and of treaties, the problem of the Bosphorus and the Dardanelles remains pregnant with trouble. Its solution is endangered by the variety of the issues at stake and by the venom of traditional rivalries. The blood shed by the thousands on thousands who died at Gallipoli did not wash the way clear to a just and peaceable settlement in the Near East. The result is that four years after the Armistice a definitive arrangement is only just emerging. Unless that settlement is based on sound international principles and with proper regard to the true interests of separate nations, both weak and strong, the peace of the world will remain in danger. Our American interest in the settlement is therefore clear and

natural. Indeed the authorities at Washington have already spoken. Secretary Hughes has stated that —

the American Government is gratified to observe that the proposal of the three Allied Governments seeks to insure effectively “the liberty of the Dardanelles, the Sea of Marmora, and the Bosphorus”. . . . This Government also trusts that suitable arrangements may be agreed upon in the interest of peace to preserve the freedom of the Straits pending the conference to conclude a final treaty of peace between Turkey, Greece, and the Allies.

This recent official expression is in line with a statement made by the Secretary of State in 1868 to the Russian Minister in Washington. Mr. Seward then said that the United States was “in principle and by habit favorable to the largest freedom of navigation and commerce compatible with the rights of individual nations” and that we would “favor the removal of the restrictions upon the navigation of the Bosphorus and the Dardanelles within the limits of international law”. Thus the American Government in observing the restrictive arrangements which have been adopted from time to time by foreign Powers with regard to the navigation of the Straits has recognized these regulations merely as of “usage” and not as a “right under the law of nations”. In this respect therefore, the policy of the United States has been in contrast to that followed by Turkey and by the great European Powers in time past. If, in connection with the peace conference summoned to settle the affairs of the Near East, the “freedom of the Straits” should be secured by general international agreement, the result would be clearly in accord with our historical national policy with regard to natural waterways which are of international importance.

Such a result, however, will not be achieved without severe scrutiny of lines of national interest as well as of principles of international law. The geographical location and the historical importance of the Straits give to any arrangements regarding the Bosphorus and the Dardanelles world wide political and economic significance. The interests which are involved in the solution of the problem of the Straits are entangled with the rootages of peace and war for all the world.

The Bosphorus and the Dardanelles, linking the Black Sea, the Sea of Marmora, and the Mediterranean have sometimes been

loosely called the “Canal of Constantinople”. That term, though geographically incorrect, gives clue to the historical issues which cluster about this international and imperial waterway. This narrow passage has not been an ancient boundary between Europe and Asia. Instead it has been one of the chief routes of communication, a maritime highway not only between nations but between entire continents and civilizations. Where Jason and his Argonauts once sailed in search of the Golden Fleece (perhaps as pioneers of the Angora wool trade), now, with the return of order, modern argosies of grain and oil and metalled wealth may renew the healthy life of commerce. The terms for such traffic and the national and naval interests which surround them are vital in themselves. They are made much more difficult by the historical as well as the actual importance of Constantinople, which is both an imperial capital and a port of call.

Time and again both diplomats and admirals have had to face the practical question as to whether the rulers of Constantinople by virtue of their situation were to control an international maritime route of immense commercial and strategic importance. The decay of Turkish power has only added to the difficulty of the successive decisions. At Constantinople thronged the interests of the great European Powers, jostling each other and also the claims of the tenacious Turk. As the Sultan became less powerful the threat of opposing Western policies became greater, till in the World War the control of the Straits became one of the supreme issues of victory or defeat. If the Allies had forced the passage of the Dardanelles in 1915 it is probable that the war would have ended in 1916. With what result to Russia and to the Near East, only the gods know.

The Turks took up a persistent and calculated position in the days of their military power. Early in the eighteenth century they continued to deny to the commercial vessels of all other nations access to the Black Sea which they officially described as a “chaste and pure virgin inaccessible to everybody”. Two hundred years ago Constantinople was a citadel, the implacable guardian of the Straits; today that ancient city is a junction of great lines of communication. The traffic rules have become international agreements and for that reason much more difficult

to determine. Such a development explains the character and scope of the present problem. It is the significant story of the gradual victory of the claims for a *mare liberum* as against a *mare clausum*, the successful progress of international coöperation for freedom of navigation on the high seas as against the arbitrary monopoly of commerce in waters where territorial claims were dominant.

In the sixteenth century the Mediterranean had been practically a Mohammedan lake. Indeed the Barbary pirates still took their toll till early in the last century. The decrease of Ottoman naval power during the seventeenth century did not, however, affect Turkish control of the Straits or of the Black Sea. British and Dutch merchants wishing to trade with Black Sea ports were grudgingly admitted to Constantinople, there to transfer their goods from Christian ships to vessels flying the Turkish flag. These alone could complete the traffic on waters which were then exclusively Turkish.

This naval and commerical monopoly remained secure even after Peter the Great had led his armies southward to the capture of Azov in 1696. The Czar tried in vain to use his new harbor for the development of Russian commerce. The Turks were obstinate and vigorously maintained their legal claims with the comment that "when foreign ships gain the right to navigate freely in the Black Sea the end of the Ottoman Empire will have rung". Russian merchant ships could not sail to Constantinople; they must tranship their cargoes to Turkish bottoms at the entrance of the Sea of Azov. Likewise Austrian goods coming down the Danube must be transferred to Turkish vessels. By treaty in 1739 this superiority of Turkish claims extended to the destruction of the Russian forts at Azov and to the prohibition of the construction or maintenance of a Russian fleet in these waters.

This situation became intolerable as the economic development of southern Russia rapidly advanced. Under Catherine II a more aggressive policy sent a Russian squadron for the first time past Gibraltar in 1770 to attempt the blockade of the Dardanelles. Here the protests of neutrals helped to weaken this bold attempt to coerce the Turks; but four years later by the famous

treaty of Kutchuk-Kainardji the Russians invaded the Turkish monopoly. In the course of four short hours of diplomatic conference the Turks gave up the claims of three centuries. The Black Sea was opened to Russian merchant vessels of a stipulated size. The Bosphorus and the Dardanelles, as well, were to be opened by application of the most favored nation clause. The Straits and the Black Sea remained closed to warships in peace as well as in war and commercial vessels could of course operate only in accordance with Turkish regulations. But the commercial monopoly was broken and a new stage had been reached.

With the period of the Napoleonic wars came the more dangerous problem of the navigation of the Straits by warships. As long as the Turks remained an active fighting force it was unlikely that the Straits could be successfully forced and held. Since the date of its foundation in 326 Constantinople had been captured only twice. But with the gradual decay of the military strength of the Sultans the safety of Constantinople came to depend less and less on its natural position and on the efficiency of its Mohammedan defenders. Instead, the jealousies and rivalries of Christian Europe became its chief guarantee. Constantinople could be captured only in the course of a general war. In such a struggle the Turks could count on the support of one of the European national groups. Thus the Ottoman Empire survived because it became a necessary pawn in the great European political combinations of the nineteenth century. A similar condition is primarily responsible today for the opportunity which has been given to Kemal Pasha to lead a renascent Turkey back to strategic power.

The immediate effect of this general state of affairs became plain at the time of Napoleon's expedition to Egypt. England and Russia united with the Sultan to oppose the French. Thus the passage of Russian men-of-war through the Straits to the Mediterranean with the assent of Turkey invaded the policy which had long forbidden all foreign naval vessels to use the channel even in time of peace. This practice, which continued for several years, was later to be cited as a precedent. Nevertheless the Russian Government was careful to preserve this privilege only for its own advantage. Turkish sovereignty over the

Straits remained and they were closed to the warships of other countries against whom Russia and Turkey were to unite to oppose the invasion of the Straits and of the Black Sea.

In spite of intrigue by the French this Russian-Turkish agreement lasted till 1806. Meanwhile both English and French commercial vessels won the right of navigation in the Black Sea. The Porte had, however, become thoroughly alarmed at the danger of intervention by foreign navies and in 1809 by the Treaty of the Dardanelles secured acceptance by Great Britain of the "ancient rule of the Ottoman Empire" that all foreign warships were barred from "the Canal of Constantinople".

For twenty years and more the principle of free navigation by merchant vessels was repeatedly confirmed in many treaties but only as a privilege granted by Turkey to friendly countries. Thus it was agreed by Article VII of the treaty of 1830 between the United States and Turkey that "merchant vessels of the United States in like manner as the vessels of the most favored nation" should "have liberty to pass the canal of the imperial residence and go and come in the Black Sea either laden or in ballast." From the fact that no mention was made of warships in this treaty it has been argued that America had also accepted the "ancient rule of the Ottoman Empire". This, however, is not the fact. We have thought it expedient to acquiesce in the exclusion of our warships but we have never abandoned the right to their passage. Thus Mr. Hamilton Fish when Secretary of State wrote in 1871:

The Black Sea, like the Baltic, is a vast expanse of waters which wash the shores not alone of Turkish territory, but of those of another great Power who may, in times of peace at least, expect visits from men-of-war of friendly states. It seems unfair that any such claim as that of Turkey should be set up as a bar to such an intercourse, or that the privilege should in any way be subject to her suffrance.

Again in 1873 he wrote to Mr. Boker, our Minister at Constantinople:

The abstract right of the Turkish Government to obstruct the navigation of the Dardanelles even to vessels of war in time of peace is a serious question. . . . A proper occasion may arise for us to dispute the applicability of the claim to the United States men-of-war.

We have not pressed this claim and have submitted to Turkish practice in the matter; but in contrast to other nations the United States has never agreed by treaty to the limitation of our right to send our warships through the “Canal of Constantinople” or into the Black Sea.

The story of European experience in this matter now falls into four distinct stages. The history of the Eastern Question during the decade prior to 1841 had been stormy. The Porte had at times almost submitted to a Russian protectorate and had agreed to Russian naval protection for Constantinople. Such predominance by Russia had roused the jealousy of other European Powers. Great Britain in particular now urged a general international agreement with regard to the Straits to nullify the special position which had been asserted by Russia. The Convention of the Dardanelles was, therefore, signed at London in 1841 by Great Britain, Austria, France, Prussia, Russia and Turkey. The “ancient rule of the Ottoman Empire” was confirmed and the Porte promised to exclude warships of all foreign navies from both the Bosphorus and the Dardanelles so long as Turkey was at peace. Thus the principle of Turkish sovereignty in such matters was transferred to an international basis.

A second stage was reached with the approach of the Crimean War in 1853. The whole system of the convention of 1841 broke down, for the French and British Governments decided to send fleets to Constantinople. To the protests of Russia England merely replied that her fleet was for the protection of British subjects. The outbreak of war between Turkey and Russia automatically suspended the closing of the Dardanelles by international agreement; and the alliance of the Porte with England and France, and later with Sardinia opened the Straits to war vessels of these states until the Treaty of Paris in 1856. Then the principle of the convention of 1841 was once more affirmed by international agreement.

Furthermore, as a punishment of Russia, the Black Sea was neutralized. Its waters and ports were declared to be formally and perpetually closed to the warships of all the Powers. Exception was made for Russia and Turkey, each of which could maintain six small steam vessels; and in addition two guardships

were allowed to each of the Powers guaranteeing the free navigation of the River Danube. The crushing restriction, however, was the prohibition of the maintenance or construction of "military maritime arsenals" on the shores of the Black Sea. Turkey had practically no navy in the Black Sea and Russia was forbidden to develop an effective one. This restriction which was naturally galling to Russia lasted only till 1871. Taking advantage of the general European situation created by the Franco-Prussian war the Czar's Government denounced this limitation.

This action later received international recognition in the Treaty of London of 1871. The Straits, however, remained closed by the continuance of the principle of 1841 and of 1856. Its application was somewhat altered for it was agreed that Turkey might open the Straits in time of peace to warships of friendly and allied Powers in case the Porte judged it necessary to safeguard the execution of other provisions of the peace of Paris of 1856. Nominally these provisions continued in effect till Turkey entered the World War. Practically, however, there were several instances of their violation. This third stage under the terms of the treaty of 1871 is, therefore, marked by the failure to maintain the closing of the Straits by a system of international agreement between the great Powers and Turkey. This was first shown during the crisis of 1877-78 which so nearly involved England and Russia in war. The British became greatly alarmed as to Russia's intentions and actions regarding Constantinople and Gallipoli. They, therefore, ordered British naval forces on three occasions to enter the Dardanelles. For many months in 1878 a part of the British fleet remained near Constantinople during the negotiation of peace. The presence of this squadron undoubtedly had a restraining influence on the aggressive party in Russia who might otherwise have attempted the occupation of Constantinople. The general result was to continue, in the peace signed at Berlin in 1878, the provisions of the treaty of 1871.

Between the Congress of Berlin and the treaty of Sèvres in 1920 there are no treaty changes to note; but existing regulations were somewhat modified and on several occasions the right of passage both of merchant and of war vessels was called in question. The independence of Roumania was followed by that of Bulgaria

making a fourth Black Sea riverain state; and the outbreak of seven wars involved at times new political elements. These can only attract brief attention though they all combine to show the unsatisfactory and uncertain character of the situation during these years.

Disputes regarding foreign ships engaged in local coasting trade or passenger service were frequent. In general the Porte stressed its sovereignty and enforced more rigidly the regulations and formalities of passage for any foreign merchant ships. Nevertheless in the case of the Russian volunteer fleet of potential auxilliary cruisers the Turkish authorities agreed to their passage from the Black Sea as “merchant” ships even though they carried troops bound for the Far East. Three such ships passed through the Straits southbound. One was to become a hospital ship. Two, the *Smolensk* and the *Petersburg*, soon appeared in the Red Sea as warships. This was during the Russo-Japanese war; and these Russian cruisers, claiming the right to search for contraband and for mails bound for Japan, stopped neutral vessels. The controversy which followed was argued officially chiefly on grounds of international law. Actually a political issue of the first importance was involved. Among the vessels stopped or captured were British ships; and England, in addition to her treaty interests as to the Straits, was bound by the terms of the Anglo-Japanese Alliance of 1902. The net result of the controversy, which was decided on legal grounds, was the defeat of Russian claims. Thus the rule of the Straits was of great assistance to Japan for the best Russian squadron was compelled to remain in the Black Sea.

During the Turko-Italian war the Turks laid mines in the Dardanelles; and the threat of a raid by Italian warships so alarmed them that they finally closed the Dardanelles to all shipping. These steps led to remonstrance by neutral states who claimed the right of navigation for their merchant vessels under international law and under treaties. As a result the Straits were once more opened for the rest of the war nor were they closed during the two Balkan wars of 1912–13.

With the outbreak of the World War the question of the Straits became of immense importance on political, naval, and economic

grounds. It is scarcely necessary to cite the arrival of the *Goeben* and the *Breslau* off Constantinople on August 11, 1914, as the most important event which led to the entry of Turkey into the war. Indeed before that grave event the dominance of Germany at Constantinople had led to serious interference by Turkey with merchant shipping of the Allies in the Straits. German officers were in command of the defenses of the Straits; and by the middle of September the Turkish fleet was entirely in German hands. In the meantime an English naval force had gathered off the Dardanelles prepared to attack the German ships if they should sally out. The alleged sale of these two boats by Germany to Turkey still left them with German officers and crews and practically at the disposal of the German Ambassador. German transports had brought munitions and on one a wireless establishment was freely used. The violations of neutrality under international law were therefore clear. The breach of treaties regarding the Straits was equally evident and important. On September 26 the exit of a Turkish torpedo boat from the Dardanelles was stopped by the British and the channel was in turn closed by the Turkish authorities.

In the meantime preparations for war went forward in other parts of the Ottoman Empire; but, as the British Ambassador wrote, the "key of the situation" lay in Constantinople. Finally, on October 29, Turkish warships raided Russian ports in the Black Sea and the Allies withdrew their Ambassadors from Constantinople. The Straits soon became the scene of bitter fighting and the course of the war only revealed more clearly the inadequacy of all previous arrangements for their regulation.

The military defeat and the political collapse of the Teutonic-Turkish alliance naturally left the future of the Straits to be settled in a definitive peace. This was done in the treaty of Sèvres which was signed on August 10, 1920. But that treaty has been torn to pieces without ratification. The result is that the fourth stage of the problem of the Straits seems to be worse than any other. Analysis of the situation and of the various solutions which have been discussed may help to clear the air. Even the provisions of the discarded treaty of Sèvres have their merits.

Overshadowing the whole problem, however, remain two great uncertainties—the character and policies of the Governments of both Turkey and Russia. Furthermore, the terms now proposed as the result of the military success of the Angora Government involve a possible separation of the sovereignty at Constantinople from the practical control of the Straits. Hitherto such a division had been almost unthinkable. That it is now suggested is due to the course of recent events and to the endeavor to square a genuine international necessity with the fortunes of diplomacy and of war. The whole civilized world requires a settlement of the future of the Straits which will not be dependent mainly on the possible policies of a national Turkey nor on the course of European political rivalry and intrigue with regard to the Eastern Question. Yet Turkish rule is apparently to return to Constantinople and to stabilize the situation of the Straits without close reference to the régime at Constantinople would task the genius of an Aristotle or a Machiavelli.

The treaty of Sèvres provided:

The navigation of the Straits, including the Dardanelles, the Sea of Marmora and the Bosphorus, shall in future be open, both in peace and war, to every vessel of commerce or of war and to military and commercial aircraft, without distinction of flag.

These waters shall not be subject to blockade, nor shall any belligerent right be exercised nor any act of hostility be committed within them, unless in pursuance of a decision of the Council of the League of Nations.

This arrangement was to be entrusted to a “Commission of the Straits” composed of representatives of each of the following governments:

The United States of America (if and when that Government is willing to participate), the British Empire, France, Italy, Japan, Russia (if and when Russia becomes a member of the League of Nations), Greece, Roumania, and Bulgaria and Turkey (if and when the two latter States become members of the League of Nations). Each Power shall appoint one representative. The Representatives of the United States of America, the British Empire, France, Italy, Japan and Russia shall each have two votes. The representatives of Greece, Roumania and Bulgaria and Turkey shall each have one vote. Each Commissioner shall be removable only by the Government which appointed him.

The result of two centuries of war and diplomacy was the victory of the "freedom of the Straits" under international guarantee. As such it was a significant, progressive step in the recognition of community of interests throughout the world. Today this settlement as a whole has been wrecked. It remains to be seen whether this particular section of the treaty is to be salvaged and if so whether any alterations are needed.

This proposal of the treaty of Sèvres was not agreed upon in 1920 until many other plans had been debated and rejected. It would be useless now to review all the various projects which were considered during 1918-20. Many of them are now rendered impossible by changes in the political situation. In any case it is essential to bear in mind that any settlement for the Straits is first of all a political rather than a purely legal matter. Practical aspects rather than moral or abstract considerations must determine the adoption of any particular solution.

This the United States has already indicated by statements made regarding ultimate Russian interest in any permanent settlement of both Far Eastern and Near Eastern questions. Thus Mr. Polk wrote to the Allies on March 24, 1920:

This Government is convinced that no arrangement that is now made concerning the government and control of Constantinople and the Straits can have any element of permanency unless the vital interests of Russia in these problems are carefully provided for and protected, and unless it is understood that Russia, when it has a government recognized by the civilized world, may assert its right to be heard in regard to the decisions now made.

It is noted with pleasure that the questions of passage of warships and the régime of the Straits in war-time are still under advisement, as this Government is convinced that no final decision should or can be made without the consent of Russia.

With regard to the Siberian question Secretary Hughes on September 19, 1921, maintained in advance of the meeting of the Washington Conference that—

in the absence of a single recognized Russian Government the protection of legitimate Russian interests must devolve as a moral trusteeship upon the whole Conference.

Both of these statements are similar in nature and both range ahead of immediate and probably temporary conditions.

It is important in any case to consider particularly the relation of the present Russian Government to the problem in hand. The Soviet authorities by the publication in 1918 of the secret treaties of the Czar's Government showed that they did not adhere to the programme proposed by the secret agreement of 1915. That agreement had assigned Constantinople and the real control of the Straits to Russia. The Revolutionary Government however, has not failed to assert Russian interest with regard to the Straits and the Black Sea. In treaties with the Angora Turks in 1921 and 1922 the Soviet authorities declare that “international regulation concerning the Black Sea and the Dardanelles” must be entrusted to a future conference composed exclusively of delegates of the riverain states and that Turkey must retain complete sovereignty over Constantinople. In other words the future regulation of the Straits, though neither Russian nor Turkish exclusively, must become a local concern and in principle revert to the status of the early nineteenth century.

In similar fashion the Moscow Government by a note of September 14, 1922, asserted that Russia would not “consent to the Straits being opened to the battleships of any country” and that “Russia, Turkey, The Ukraine, and Georgia, to whom belongs practically the whole Black Sea coast, cannot admit the right of any other government to interfere in the settlement of the question of the Straits.” This position is of course in line with principles of Russian policy which were asserted in the days of the Czars Paul I, Alexander I, and Nicholas I. Against these views stand the development of European diplomacy throughout the nineteenth century, the progressive tendencies of international law as indicated in the Treaty of Sèvres, and the views of American statesmen as quoted earlier in this article. The fact that Russian “Whites” are reported as rallying to the support of the views of the Soviet authorities on this question is not surprising. It marks the survival of Russian nationalist, imperial interests in Near Eastern affairs.

On the other hand the idea that Great Britain or any combination of the Allies can attempt, at this stage of the world's affairs, to make the Straits a special naval preserve is equally dangerous. Gallipoli should never be another Gibraltar for England or for any

other Power. The future peace of the world would be endangered if any programme for the fortification or control of the Straits by any single state were now permitted. To allow this would be to set back the hands of the international clock.

Furthermore, merely to label the Black Sea a "sea of peace" would not disguise the significance of an attempt to treat the Black Sea as a special marine area barred to all naval forces. This Russian idea is also opposed to international interest. It would tend to propagate essentially local and possibly selfish aims. For the Black Sea States now to arrogate to themselves the exclusive regulation of waters which in the course of centuries have finally become thoroughly international is equally dangerous. If this plan were adopted it would mean that these waters would be barred forever even to the righteous and peaceable errands of the American navy. With due appreciation of our love and respect for peace such a plan might limit the usefulness of our naval power as an instrument of justice and of national policy.

It would be futile to anticipate events which may take place before the publication of this article. Circumstances may alter the particulars of the situation. The general elements, however, stand out clearly as they have developed in historical fashion. The solution which may be adopted will fail of its proper purpose unless these elements are duly considered. What is needed is a broad international settlement based on adequate international responsibility. Any other arrangement will merely prepare the way for further trouble.

In this connection the process and methods of the solution to be arrived at are also important. Unless care is taken precedents may be developed which might be used to threaten our naval and military position in the Panama Canal Zone. Even the Erie Canal is in one sense a waterway connecting the ocean with inland seas which are in international use. The details or tactics of the negotiations at Lausanne will therefore affect our national strategy in the conclusions to be secured. This result requires careful coördination of all the elements involved to protect American policies.

ALFRED L. P. DENNIS.